

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

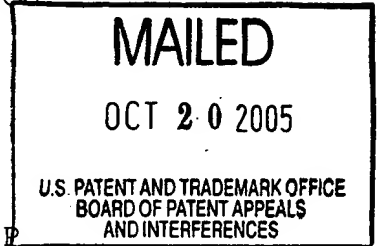
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JIAN J. CHEN, ROBERT G. VELTROP
and THOMAS E. WICKER

Appeal No. 2005-1046
Application No. 09/821,027

ON BRIEF



Before OWENS, BLANKENSHIP, and SAADAT, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

ON REQUEST FOR REHEARING

The appellants request clarification of our decision (mailed August 12, 2005). We treat the appellants' request as a request for rehearing under 37 CFR § 41.52(2004).

The appellants argue that we were inconsistent in reversing rejections of claim 12 but not claims 13-15 and 17 that depend directly or indirectly therefrom, and claims 32-34 but not claims 36, 38 and 40 that depend indirectly therefrom (request, pages 1-2).¹

¹ Claims 36, 38 and 40 depend directly from, respectively, claims 35, 37 and 39 which depend directly from, respectively,

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We affirmed the rejections of claims 13-15, 17, 36, 38 and 40 because the appellants' arguments regarding those claims were not persuasive (decision, pages 10-11 and 13-14). However, as pointed out by the appellants (request, page 1), those claims depend from rejected claims. The examiner does not rely upon the additional references (Chen or van Gogh) applied to those dependent claims for any disclosure that remedies the deficiency in Chu, Sato and Tomioka as to the claims from which they depend (answer, pages 10-16).

Consequently, we modify our decision as follows: The rejections of claims 11 and 31 under 35 U.S.C. § 102(a) over Chu, and claims 11 and 31 under 35 U.S.C. § 103 over Sato in view of Tomioka or Chu, are affirmed. The rejections under 35 U.S.C. § 103 of claims 12, 32-35, 37 and 39 over 1) Chu, and 2) Sato in view of Tomioka or Chu, claims 13-16, 19-25, 28-30, 36, 38 and 40 over 1) Chu in view of Chen, and 2) Sato in view of Tomioka or Chu, further in view of Chen, and claims 17 and 18 over 1) Chu in view of van Gogh and 2) Sato in view of Tomioka or Chu, further in view of van Gogh, are reversed. Thus, our decision remains affirmed-in-part.

claims 34, 32 and 33. Claims 35, 37 and 39 stand or fall with the claims from which they depend (brief, page 7).

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The appellants' request for clarification of our decision is
granted.

GRANTED

Terry J. Owens
TERRY J. OWENS)
Administrative Patent Judge)

Howard B. Blankenship
HOWARD B. BLANKENSHIP)
Administrative Patent Judge)

Mahshid D. Saadat
MAHSHID D. SAADAT)
Administrative Patent Judge)

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